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LETTER DATED 7 JULY 1997 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In accordance with paragraph 13 of its resolution 748 (1992), the Security Council is reviewing the measures imposed against the Libyan Arab Jamahiriya under that resolution and under resolution 883 (1993). The Libyan Arab Jamahiriya, as the party affected by those resolutions, has a greater stake in this matter than any other party, and would like to make the following points:

I. The review has now become nothing more than an automatic extension of the sanctions. It is now a matter of routine and is likely to become meaningless, in spite of the fact that the procedure was established by the Council to review the measures taken by the parties concerned in implementation of the Council's resolutions, and to adjust, suspend or lift the sanctions depending on how the resolutions were implemented. Even in those cases where sanctions were lifted or suspended, the decisions to that effect resulted from agreements concluded outside the framework of the Security Council. The best example of systematic extension, without effective review, of sanctions imposed by the Security Council is the way in which the Council reviews the sanctions imposed on the Libyan Arab Jamahiriya under resolutions 748 (1992) and 883 (1993). In those cases, the review is limited to short meetings during which no one even bothers to discuss the specific measures taken by the Libyan Arab Jamahiriya to implement resolution 731 (1992), in accordance with international law, the principles of the Charter of the United Nations and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

II. During all its contacts with the States members of the Security Council, the Libyan Arab Jamahiriya has been invited to solve the problem with the other parties, namely, the United States of America and the United Kingdom of Great Britain and Northern Ireland. But those two countries state that the problem concerns only the Libyan Arab Jamahiriya and the Security Council, and they reject the initiatives made by the Libyan side, as well as the efforts of regional organizations to settle the outstanding issues. All those initiatives have been referred to the Security Council through official letters and in the course of discussions between the chairmen of the aforementioned organizations and the committees established by them in conjunction with the Presidents and members of the Security Council.

III. Immediately after the announcement that two Libyan nationals were considered suspects in the case of the Pan Am aircraft that crashed over Lockerbie on 21 December 1988, the Libyan Arab Jamahiriya took the measures set forth in the 1971 Montreal Convention, appointing two judges to investigate the case. But the parties concerned refused to cooperate with those two judges, as a result of which the Secretary of the General People's Committee for Foreign Liaison and International Cooperation wrote a letter to the Secretary of State of the United States and the Foreign Secretary of the United Kingdom requesting them to apply article 14 of the Montreal Convention. When those parties rejected that request, the case was referred to the International Court of Justice, where it is still pending.

The Libyan Arab Jamahiriya also proposed direct negotiations or negotiations through the United Nations.

It also agreed that the suspects could appear before a fair and impartial court, at a location where they would be guaranteed a minimum standard of neutrality, far from the climate of bias prevailing in the United States and the United Kingdom.

IV. The Libyan Arab Jamahiriya cooperated with the United Kingdom in providing all the information it has about the Irish Republican Army, something that the United Kingdom authorities have themselves confirmed.

V. The Libyan Arab Jamahiriya cooperated fully with the French examining judge who visited Tripoli in July 1996. He obtained everything he asked for, as the representative of France stated before the Security Council.

Should the Security Council not take all those factors into account when it is reviewing the unwarranted measures it has taken against the Libyan Arab Jamahiriya?

VI. The Libyan Arab Jamahiriya has serious questions about the hidden agenda behind the imposition of the sanctions. Those suspicions become even stronger when it considers that no commission has been sent to Libyan territory to investigate the alleged links with organizations suspected of having terrorist connections. The fact that the Security Council never mentions the application of paragraph 2 of resolution 748 (1992) bolsters our suspicions concerning the hidden long-term agenda of at least one of the parties concerned. It is difficult to find any other explanation for the fact that the implementation of that paragraph has been deferred, that the question has never been discussed with us since sanctions were imposed, and that there is selective implementation of certain paragraphs of the resolutions.

VII. We are even more convinced of the above because the United States and the United Kingdom have refused to cooperate with us, in violation of articles 6, 7, 11 and 14 of the Montreal Convention, and have refused to follow up our proposals and the initiatives put forward with our agreement by certain regional organizations representing the majority of the international community. These proposals may be summarized as follows:

Trial of the suspects in a third country to be designated by the Security Council;

Trial of the suspects in the International Court of Justice at The Hague, before two Scottish judges and in accordance with Scottish law;

Establishment of an ad hoc criminal chamber in the International Court of Justice at The Hague to try the two suspects.

VIII. Notwithstanding all its respect for the history and impartiality of Scottish courts and its regard for American courts, the Libyan Arab Jamahiriya would like to reaffirm that it is impossible for the two suspects to have a fair trial either in the United Kingdom or in the United States. It is impossible because of the climate of hostility and bias generated by the media and by statements made by leaders of those two countries, which means that the two suspects cannot be guaranteed their right to a fair trial. In this connection, there is the example of the United States, where it was decided to try Timothy McVeigh not in the State of Oklahoma, but in Colorado, for the same reasons that we invoked years ago, long before the bombing in Oklahoma City.

In the light of the preceding, the Libyan Arab Jamahiriya hopes that the forthcoming review to be undertaken by the Security Council during the first half of July 1997 will be a serious review, not a routine one, so that justice might be done, so that the truth might be known and, consequently, so that there might be an end to the suffering of the Libyan Arab people and the neighbouring countries affected by the disastrous consequences of the sanctions. Accordingly, the Libyan Arab Jamahiriya requests the Security Council to:

1. Name a place other than the United States and the United Kingdom where the two suspects might be tried;

2. Suspend the sanctions imposed against the Libyan Arab Jamahiriya under Security Council resolutions 748 (1992) and 883 (1993);

3. Send a committee to the Libyan Arab Jamahiriya to discuss the text and implications of paragraph 2 of Security Council resolution 748 (1992) and report thereon to the Council.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Abuzed Omar DORDA
Permanent Representative